

MEMORANDUM

Agenda Item No. 7(B)

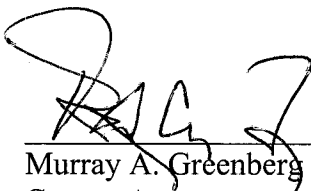
TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

(Second Reading 10-10-06)
DATE: June 20, 2006

FROM: Murray A. Greenberg
County Attorney

SUBJECT: Ordinance amending Sec.
2-1074 of the Code relating
Commission on Ethics and
Public Trust; amending
timetable for handling
complaints

The accompanying ordinance was prepared and placed on the agenda at the request of
Chairman Joe A. Martinez.

for: 

Murray A. Greenberg
County Attorney

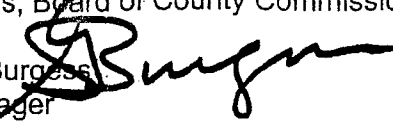
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Memorandum



Date: October 10, 2006

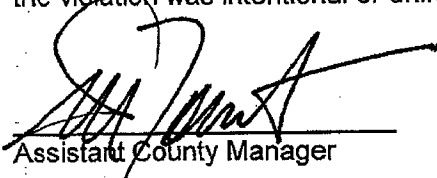
To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: George M. Burgess, County Manager 

Subject: Ordinance Amending Section 2-1074 of the Code Relating to Commission on Ethics and Public Trust

The ordinance amending Section 2-1074 of the Code of Miami-Dade County amending the timetable for handling complaints, within the jurisdiction of the Ethics Commission will not have a fiscal impact on Miami-Dade County.

The proposed ordinance standardizes the number of days the Ethics Commission has to make a probable cause determination on complaints received by the commission to 60 days, from the time of receipt. In addition, the Commission will provide a public report and final determination as to whether the violation was intentional or unintentional.


Assistant County Manager

Fiscal00606

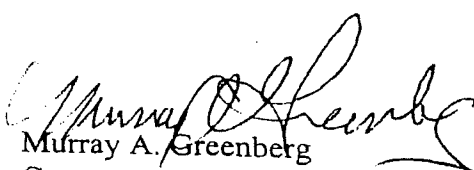


MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: October 10, 2006

FROM: 
Murray A. Greenberg
County Attorney

SUBJECT: Agenda Item No. 7(B)

Please note any items checked.

- ☐ "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Bid waiver requiring County Manager's written recommendation
- ☐ Ordinance creating a new board requires detailed County Manager's report for public hearing
- ☐ Housekeeping item (no policy decision required)
- ☐ No committee review

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(B)

10-10-06

ORDINANCE NO. _____

ORDINANCE AMENDING SECTION 2-1074 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, RELATING TO COMMISSION ON ETHICS AND PUBLIC TRUST; AMENDING TIMETABLE FOR HANDLING COMPLAINTS; PROVIDING FOR DETERMINATION OF INTENTIONAL OR UNINTENTIONAL VIOLATIONS; AMENDING SECTION 2-1074(T) RELATING TO GROUNDLESS OR FRIVOLOUS COMPLAINTS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Chapter 2, Article LXXVIII of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

**CHAPTER 2
ADMINISTRATION**

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ARTICLE LXXVIII.

**COMMISSION ON ETHICS AND
PUBLIC TRUST**

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Section 2-1074 Procedure on complaint of violation or request for advisory opinion within Ethics Commission's jurisdiction

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¹Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

(b) *Preliminary investigation and public hearing.* A preliminary investigation shall be undertaken by the Ethics Commission of each legally sufficient complaint over which the Ethics Commission has jurisdiction to determine whether there is probable cause to believe that a violation has occurred. Where a complaint is filed pursuant to subsection (a)(1), the Ethics Commission shall within sixty (60) days from the receipt of the complaint, unless extended by the Ethics Commission for good cause, determine whether the complaint is legally sufficient. If, upon completion of the preliminary investigation, the Ethics Commission finds no probable cause to believe that a violation has been committed, the Ethics Commission shall dismiss the complaint with the issuance of a report to the complainant and the alleged violator. If the Ethics Commission finds from the preliminary investigation probable cause to believe that a violation has been committed, it shall notify via certified mail the complainant and the alleged violator, otherwise known as the respondent, in writing. Where a complaint is filed pursuant to subsection (a)(1), the Ethics Commission shall make a probable cause determination within ~~[[forty-five (45)]]~~ >>sixty (60)<< days from the date the complaint is filed. Where a complaint is filed pursuant to subsection (a)(2), the Ethics Commission shall make a probable cause determination within ~~[[ninety (90)]]~~ >>sixty (60)<< days from the date the complaint is filed. Upon request submitted to the Ethics Commission in writing, any person who the Ethics Commission finds probable cause to believe has committed a violation of a provision within its jurisdiction shall be entitled to a public hearing. Such person shall be deemed to have waived the right to a public hearing if the request is not received within twenty-one (21) days following the mailing of the probable cause notification required by this subsection. The Ethics Commission may on its own motion require a public hearing, may conduct such further investigation as it deems necessary, and may enter into such stipulations and settlements as it finds to be just and in the best interest of the citizens of Miami-Dade County. The public hearing provided for in this Section 2-1074 shall be held within sixty (60) days of the probable cause determination unless >>extended by the Ethics Commission for good cause<< ~~[[the respondent has been granted a continuance]]~~.

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(p)>>Public order imposing penalty.<< Upon completion of any investigation initiated under this subsection, the Ethics Commission shall make a finding and public report as to whether any provision within its jurisdiction has been violated. If the Ethics Commission finds, based upon clear and convincing evidence in the record, that a violation has been committed, the Ethics Commission shall issue an order imposing the appropriate penalty as provided in the ordinance being enforced. >>The public report and final order shall include a determination as to whether the violation was intentional or unintentional.<< The Ethics Commission shall, within eighteen (18) months of the filing of a complaint, render a final order disposing of said complaint. If a person fails to comply with an order issued by the Ethics Commission, the Ethics Commission may make application to any circuit court of this State which shall have jurisdiction to order the violator to comply with the order of the Ethics Commission. Any violator who fails to obey the order may be punished by the court.

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(s)>>Dismissal of complaints.<< Notwithstanding any other provision of this ordinance, the Ethics Commission may, at its discretion, (i) dismiss any complaint at any stage of disposition should it determine that the public interest would not be served by proceeding further, or (ii) dismiss any complaint at any stage of disposition and issue a letter of instruction to the respondent when it appears that the alleged violation was inadvertent, unintentional or insubstantial. In the event the Ethics Commission dismisses a complaint as provided in this subsection (s), the Ethics Commission shall issue a public report stating with particularity its reasons for the dismissal. The Ethics Commission may, at the request of the State Attorney or any other law enforcement agency, stay an ongoing proceeding. The Ethics Commission shall not interfere with any ongoing criminal investigation of the State Attorney or U.S. Attorney for the Southern District of Florida.

(t) ~~[[Attorney's fees]]~~ >>Frivolous or groundless complaints.<< In any case in which the Ethics Commission determines that the complaining party filed a frivolous or groundless complaint as defined in Section 57.105, Florida

Statutes, the Ethics Commission shall order the complaining party to pay any costs and attorney's fees incurred by the Ethics Commission and/or the alleged violator. The determination by the Ethics Commission regarding whether a complaint is frivolous or groundless shall be deemed conclusive. The County Commission or any city commission may pay any attorney's fees and costs incurred by a respondent when the Ethics Commission finds either no probable cause to believe that a violation has been committed or that no violation has been committed.

Section 2. If any section, subsection, sentence, cause or provision of this ordinance is held invalid, the remainder of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such validity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any Sunset provisions shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word ordinance may be changed to "section", "article" or other appropriate word.

Section 4. This ordinance shall become effective 10 days after the date of enactment unless vetoed by the Mayor, and if vetoed shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Gerald K. Sanchez

Sponsored by Chairman Joe A. Martinez

JAC Jr.
GKS